# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 487 of 2001

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE AKIL KURESHI**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**JUNAGADH NAGARPALIKA - Petitioner(s)**

**Versus**

**LILABEN GAGUBHAI - Respondent(s)**

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**Appearance :**

MR J.H.MEHTA, FOR MS YAMINI J DESAI for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1.2.1, 1.2.2,1.2.3

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**CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**

**Date : 07/09/2005**

**ORAL JUDGMENT**

Though served with the rule, no one appears for the respondents. I have heard learned advocate Shri J.H.Mehta for Ms.Yamini Desai for the petitioner.

2. In the present petition, the petitioner Junagadh Municipal Corporation has challenged the legality of the award dated 2nd March 2000 passed by the Labour Court, Junagadh. By the impugned award, the reference filed by the respondents came to be partially allowed and the petitioner herein was directed to pay an amount of Rs.25,000/- to the respondents.

2. The respondents herein are the legal heirs of one Shri Gagubhai Rambhai who was engaged by the petitioner for a short period. Upon his disengagement, the heirs of the workman raised industrial dispute before the Labour Court since the workman expired shortly after his termination. Respondents herein i.e. heirs of the workman challenged the order of termination dated 30th November 1990. The petitioner opposed the reference and contended that the workman had not worked for more than 240 days during the relevant period of 12 calendar months preceding his termination. In any case, he was engaged for a specific work. The Labour Court found that there was insufficient evidence to hold that the workman had worked continuously for period of more than 240 days within the deeming definition of section 25-B of the Industrial Disputes Act. However, the Labour Court

strangely observed that the petitioner had violated the provisions of section 25-F of the Industrial Disputes Act and the petitioner was therefore directed to pay an amount of Rs.25,000/- to the respondents herein.

3. When the Labour Court concluded that the workman had not worked for a period of one year even within the deeming fiction created under section 25-B of the Industrial Disputes Act, there was no question of following the requirements of section 25-F of the Industrial Disputes Act. The Labour Court erred in directing the petitioner to pay Rs.25,000/- to the respondents and the award of the Labour Court therefore cannot be sustained. The same is therefore set aside. Rule is made absolute with no order as to costs.

(Akil Kureshi, J.)

(vjn)